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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

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10 HERMAN LEE BARTON, JR.,

11 Plaintiff,

12 CASE NO. C15-1230-JCC-MAT

13 v.

14 BINDER BROCK,

15 Defendant.

16 REPORT AND RECOMMENDATION

17 On July 1, 2015, plaintiff Herman Barton submitted to this Court for filing a civil rights
18 complaint under 42 U.S.C. § 1983 in which he alleged that he was being denied effective
19 assistance of counsel by the attorney appointed to represent him in his state court criminal
20 proceedings. (See Dkt. 1.) Plaintiff failed to include with his submission either the filing fee or
21 an application to proceed with this action *in forma pauperis*. (See *id.*) On August 5, 2015, the
22 Clerk sent plaintiff a letter advising him that his submission was deficient and that he would have
23 to submit either the entire filing fee or a completed application for *in forma pauperis* status on or
before September 4, 2015, or risk dismissal of this action. (Dkt. 2.) The Clerk also sent plaintiff
the appropriate *in forma pauperis* application form to complete. (See *id.*) To date, plaintiff has
submitted neither the filing fee nor a completed application for leave to proceed *in forma*

1 *pauperis.*

2 As plaintiff has had ample time to comply with the filing fee requirement, but has failed
3 to do so, this Court recommends that the instant action be dismissed without prejudice for failure
4 to prosecute. A proposed order accompanies this Report and Recommendation.

5 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
6 served upon all parties to this suit within **twenty-one (21) days** of the date on which this Report
7 and Recommendation is signed. Failure to file objections within the specified time may affect
8 your right to appeal. Objections should be noted for consideration on the District Judge's
9 motions calendar for the third Friday after they are filed. Responses to objections may be filed
10 within **fourteen (14) days** after service of objections. If no timely objections are filed, the
11 matter will be ready for consideration by the District Judge on **October 16, 2015**.

12 DATED this 21st day of September, 2015.

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15 Mary Alice Theiler
United States Magistrate Judge